

REMARKS

A. Reference Submitted in Previous Response

In a previous response the Applicants submitted another copy of an article entitled "An Indoor Wireless System for Personalized Shopping Assistant" as requested by the Examiner. The Applicants respectfully request that the Examiner initial the original PTO-1449 that lists this article indicating the Examiner has fully considered this reference.

B. CLAIM REJECTIONS – 35 U.S.C. §102

Claims 62-83 and 102-108 were rejected under 35 U.S.C. §102(e) as being anticipated by Treyz et al., U.S. Patent No. 6,587,835 ("Treyz"). Applicants respectfully disagree and traverse these rejections for at least the following reasons.

The Broadcast & Fulfillment Features

Applicants submit that Treyz fails to disclose or suggest the reception of order information when a personal/customer's, wireless communications device is within a predetermined distance of a vendor facility broadcasting a wireless signal, said predetermined distance being such as to assure that an order is fulfilled before a user/customer arrives at the facility, as recited in independent claim 62 and 102 (and incorporated into their dependent claims).

Instead, Treyz appears to disclose a system that includes a "hand held" device (12) that places an order without first receiving a broadcast signal and without reference to the reception of such a signal within a predetermined

distance of a vendor's facility to assure that the order is fulfilled before a customer arrives. (see Treyz, columns 21 and 22).

After reading the Examiner's comments on page 15 of the Office Action it appears that the Examiner is nonetheless taking the position that the hand held device 12 does receive a broadcast signal.

Notwithstanding the Examiner's somewhat strained interpretation of Treyz's IR links, short range RF links and cellular links as broadcasts, the Applicants note that simply stated none of these links are broadcasts; nor are they described as such in Treyz.

Further, even if a signal received by the hand held device 12 could be considered a broadcast signal, such a signal is not described as being sent within a predetermined distance of a vendor facility, said predetermined distance being such as to assure that an order is fulfilled before a customer (or user of a device) arrives at the facility. Rather, the only distance limitation placed on the signal is that imposed on it by the particular technology selected by the implementor to transmit the signal (i.e., IR or RF); no consideration is given to whether an order can be successfully fulfilled before the customer arrives at a vendor's facility. Said another way, Treyz is not concerned with how close or far the hand held device 12 is from a vendor's facility to fulfill an order.

Accordingly, because Treyz does not disclose each and every feature of the claimed inventions, Treyz cannot anticipate claims 62-83 and 102-108 based on 35 U.S.C. §102(e).

Accordingly, Applicants respectfully request withdrawal of the rejections and allowance of claims 62-83 and 102-108.

C. CLAIM REJECTIONS – U.S.C. §103

(i) Claims 1, 5, 6, 11-20, 28-39, 41, 42, 45-61, 84, 87, 89-92, and 96-101

Claims 1, 5, 6, 11-20, 28-39, 41, 42, 45-61, 84, 87, 89-92, and 96-101 were rejected under 35 U.S.C. §103(a) as being unpatentable over Treyz in view of Ding et al., U.S. Patent Publication No. 2002/059111 (“Ding”) and in further view of Cupps et al., U.S. Patent No. 5,991,739 (“Cupps”). Applicants respectfully disagree and traverse these rejections for at least the following reasons.

Applicants note that the rejected claims include similar features as claims 62-83 and 102-108, namely, each of the rejected claims either broadcasts a signal, or receives a broadcasted signal, where such a signal is broadcast or received within a predetermined distance of a vendor facility, said predetermined distance being such as to assure that a customer’s order is fulfilled before the customer arrives at the facility. As noted above, these features are missing from Treyz. Further, neither Cupps nor Ding overcome the deficiencies of Treyz. For this reason, Applicants respectfully submit that claims 1, 5, 6, 11-20, 28-39, 41, 42, 45-61, 84, 87, 89-92, and 96-101 are not rendered obvious by the combination of Treyz in view of Cupps and Ding.

Accordingly, Applicants respectfully request withdrawal of the pending rejections and allowance of claims 1, 5, 6, 11-20, 28-39, 41, 42, 45-61, 84, 87, 89-92, and 96-101.

(ii.) Claim 10

Claim 10 was rejected under U.S.C. §103(a) as being unpatentable over Treyz in view of Ding and Cupps, and in further view of Tracy et al., U.S. Patent No. 5,979,757 ("Tracy"). Applicants respectfully disagree and traverse this rejection for at least the following reasons.

Applicants note that Tracy does not overcome the noted deficiencies of Treyz in view of Ding and Cupps noted above. For this reason, Applicants respectfully submit that claim 10, which depends on independent claim 1, is not rendered obvious by the combination of Treyz in view of Ding, Cupps and Tracy.

Accordingly, Applicants respectfully request withdrawal of the pending rejection and allowance of claim 10.

(iii.) Claims 22-27, 43, 44, 93 and 94

Claims 22-27, 43, 44, 93 and 94 were rejected under 35 U.S.C. §103(a) as being unpatentable over Treyz in view of Ding, Cupps and in further view of Hall, U.S. Patent No. 6,026,375 ("Hall"). Applicants respectfully disagree and traverse these rejections for at least the following reasons.

Applicants note that Hall does not overcome the noted deficiencies of Treyz, Ding and Cupps noted above. For this reason, Applicants respectfully

submit that claims 22-27, 43, 44, 93 and 94 are not rendered obvious by the combination of Treyz, Ding, Cupps and Hall.

Accordingly, Applicants respectfully request withdrawal of the pending rejections and allowance of claims 22-27, 43, 44, 93 and 94.

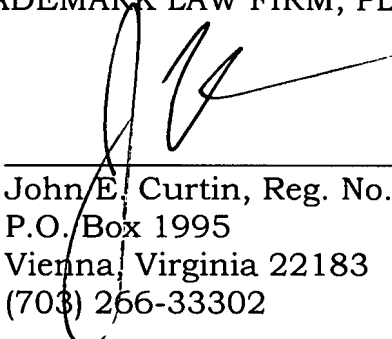
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John E. Curtin at the telephone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 50-3777 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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By



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